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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1958

NO. 160

UNITED STATES OF AMERICA, *Appellant,*

vs.

NATIONAL MALLEABLE & STEEL CASTINGS CO., *et al.*

On Appeal From The United States District Court For The Northern District of Ohio

STATEMENT OF ASSOCIATION OF AMERICAN RAILROADS REGARDING ABSENCE OF OPPOSITION TO ITS MOTION TO DISMISS OR AFFIRM

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TWENTIETH CENTURY PRESS, INC., CHICAGO 9

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We respectfully invite the attention of the Court to the fact that the United States of America, appellant, has not opposed or objected to the granting of the Motion to Dismiss or Affirm by Association of American Railroads (AAR).

The title of the government's brief is "Brief for the United States in Opposition to the Defendant Manufacturers' Motion to Affirm." On page 1 of that brief, the government refers to "Appellees' motion to affirm" and on page 8 it states "that appellees' motion to affirm should be denied." By footnote on page 1 it states:

> "We use the word 'appellees' to apply to the appellees referred to in the jurisdictional statement as the defendant manufacturers, namely, National Malleable and Steel Castings Co., The Buckeye Steel Castings Company, The Symington-Gould Corporation (present name, Symington Wayne Corporation), and McConway & Torley Corporation."

AAR, which was one of the defendants below, is not a "defendant manufacturer". AAR's own motion to dismiss or affirm, which is not opposed by the government, pointed out that none of the questions presented on appeal involves AAR; that the filing of AAR's motion was necessitated only because the introduction to the Jurisdictional Statement said that the appellees included AAR; and that the statement may have been inadvertent.

The government's brief thus has conceded that AAR's motion should be granted. AAR should not be put to any further expense of participating in a proceeding concerning questions with which no one now contends it is involved. Its status on this appeal should be clarified by granting its motion to be dismissed as an appellee.

Respectfully submitted,

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September 9, 1958.